

**TESTIMONY OF COMMISSIONER SHAUN DONOVAN, NEW YORK CITY
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
BEFORE THE U.S. HOUSE OF REPRESENTATIVES HOUSING
SUBCOMMITTEE
JULY 10, 2007**

GOOD MORNING, CHAIRWOMAN WATERS AND CONGRESSMAN TOWNS. I AM SHAUN DONOVAN, COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (HPD). I APPRECIATE THE OPPORTUNITY TO TESTIFY HERE TODAY ABOUT AFFORDABLE HOUSING PRESERVATION AND STARRETT CITY IN PARTICULAR.

HPD'S MISSION IS TO PROMOTE QUALITY HOUSING AND VIABLE NEIGHBORHOODS FOR NEW YORKERS. AS THE NATION'S LARGEST MUNICIPAL HOUSING DEVELOPMENT AGENCY, WE PARTNER WITH PRIVATE, PUBLIC AND COMMUNITY STAKEHOLDERS TO STRENGTHEN THE NEIGHBORHOODS OF OUR CITY. THE CRISIS OF ABANDONMENT THAT PLAGUED MANY NEW YORK COMMUNITIES IN THE 1970'S AND '80'S WAS SOLVED BY REBUILDING NEIGHBORHOODS, DRIVING DOWN CRIME AND IMPROVING SCHOOLS. HUNDREDS OF THOUSANDS OF PEOPLE HAVE MOVED TO NEW YORK TO SHARE IN OUR SUCCESS AND WE ARE PREDICTING THAT NEW YORK CITY'S POPULATION WILL GROW BY CLOSE TO A MILLION BY THE YEAR 2030. THAT POPULATION GROWTH WILL ADD TO OUR CURRENT CHALLENGE OF HOUSING AFFORDABILITY.

ON EARTH DAY, MAYOR BLOOMBERG UNVEILED PLANYC 2030, WHICH INCLUDES A COMMITMENT TO CREATE ENOUGH AFFORDABLE AND ENVIRONMENTALLY SUSTAINABLE HOUSING FOR OUR GROWING POPULATION. THAT PLEDGE BUILDS ON THE COMMITMENT MADE IN MAYOR BLOOMBERG'S NEW HOUSING MARKETPLACE PLAN TO FUND THE CONSTRUCTION AND REHABILITATION OF 165,000 AFFORDABLE APARTMENTS AND HOMES BY 2013. WE HAVE ALREADY REACHED 38 PERCENT OF OUR GOAL -- 63,000 NEW OR PRESERVED UNITS OF AFFORDABLE HOUSING WILL HAVE STARTED CONSTRUCTION BY THE END OF FISCAL YEAR 2007.

KEEPING STARRETT CITY AFFORDABLE IS A PRIORITY FOR THE CITY OF NEW YORK. STARRETT CITY IS ONE OF THE MOST HEAVILY REGULATED PROPERTIES IN THE COUNTRY, AND THERE ARE MANY LESSONS TO BE LEARNED HERE. OPENED IN 1974, OVER 90 PERCENT OF THE TENANTS LIVING IN STARETT GET DIRECT FEDERAL RENT SUBSIDIES OR OTHER TYPES OF ASSISTANCE FROM THE CITY AND STATE. OF THE 5,881 UNITS, 2,442 ARE COVERED BY A RENTAL ASSISTANCE PAYMENT CONTRACT FROM HUD, 1,091 UNITS ARE PROJECT-BASED SECTION 8, 626 UNITS ARE UNDER THE MITCHELL-LAMA PROGRAM, AND 1,611 UNITS ARE SECTION 236. STARRETT CITY WAS BUILT AS PART OF THE NEW YORK STATE MITCHELL-LAMA PROGRAM, CREATED IN THE 1950S TO BUILD AFFORDABLE HOUSING FOR THE MIDDLE CLASS. UNDER THE MICHELL-

LAMA PROGRAM, THE CITY PROVIDED MORTGAGES AT FAVORABLE INTEREST RATES AND DEEP PROPERTY TAX EXEMPTIONS IN EXCHANGE FOR A COMMITMENT FROM THE OWNERS TO REMAIN IN THE MITCHELL-LAMA PROGRAM FOR 20 YEARS. NEARLY THREE-QUARTERS OF THE UNITS AT STARRETT CITY ALSO RECEIVE A J-51 TAX EXEMPTION FROM THE CITY, WHICH MAKES THEM SUBJECT TO RENT STABILIZATION AT BUY-OUT.

GIVEN ALL THE PUBLIC INVESTMENT IN STARRETT CITY, THE NUMBER OF UNITS INVOLVED, AND THE STRONG DESIRE ON THE PART OF CURRENT RESIDENTS TO REMAIN HERE, IT IS EASY TO SEE WHY SO MANY PUBLIC OFFICIALS SUPPORT KEEPING STARRETT CITY AFFORDABLE. BEFORE I DISCUSS SOME OF THE FEDERAL POLICY CHANGES THAT I BELIEVE WOULD HELP PRESERVE STARRETT AND OTHER ASSISTED-PROPERTIES, I WOULD LIKE TO ADDRESS THE STATUS OF THE PROPOSED SALE OF STARRETT CITY TO CLIPPER EQUITIES. WHILE HPD DOES NOT HAVE THE SAME RIGHT OF APPROVAL FOR A POTENTIAL SALE AT STARRETT AS OUR STATE AND FEDERAL COLLEAGUES, WE ARE WORKING CLOSELY WITH OUR GOVERNMENTAL PARTNERS TO EVALUATE THE POTENTIAL SALE.

WE ARE VERY CONCERNED THAT THERE IS NO VIABLE WAY FOR STARRETT CITY TO REMAIN AFFORDABLE AND WELL MAINTAINED AT THE PROPOSED SALE PRICE OF \$1.3 BILLION. THIS VIEW IS REINFORCED BY CLIPPER'S OWN PLAN FOR THE PROPERTY – THEY ARE ASKING TO

RAISE THE RENT TO MARKET RATE LEVELS, DESPITE THE FACT THAT THE LARGE MAJORITY OF THE UNITS ARE COVERED BY THE J-51 PROGRAM, WHICH REQUIRES THEM TO REMAIN AT AFFORDABLE MITCHELL-LAMA RENTS OR IN RENT STABILIZATION. AT THE SAME TIME, THEY ARE ASKING FOR A CONTINUATION OF THE TAX ABATEMENT. THERE HAS ALSO BEEN SOME SPECULATION THAT THE PROPERTY IS WORTH \$1.3 BILLION BECAUSE OF THE POTENTIAL LAND THAT CAN BE DEVELOPED FOR NEW RESIDENTIAL UNITS. HOWEVER, HPD'S RECENT EXPERIENCE HAS SHOWN THAT BUILDING IN THIS AREA IS VERY COSTLY, WHICH THE BUYER'S PROPOSAL DOES NOT SEEM TO TAKE INTO CONSIDERATION. IN SHORT, THE ONLY WAY FOR THIS PROPOSAL TO WORK IS FOR THE PROPOSED BUYER TO OBTAIN RENTS THAT ARE MARKET RATE, AND TO OBTAIN A MASSIVE INFUSION OF SUBSIDIES FROM THE FEDERAL, STATE AND LOCAL LEVEL. THIS WILL NOT OCCUR. FURTHERMORE, WE HAVE A NUMBER OF CONCERNS WITH CLIPPER EQUITIES ITSELF, WHICH HAS A LARGE NUMBER OF SERIOUS CODE VIOLATIONS ON BUILDINGS IT OWNS. THE CLIPPER EQUITIES PROPOSAL IS A MISTAKE FOR AFFORDABLE HOUSING, AND A MISTAKE FOR TAXPAYERS.

WE WERE PLEASED WITH HUD SECRETARY JACKSON'S DECISION IN EARLY MARCH TO DENY CLIPPER EQUITIES THE RIGHT TO BUY THE DEVELOPMENT AND THE SIMILAR DETERMINATION BY THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL

COMMISSIONER VAN AMERONGEN. IN MANY INSTANCES, HUD HAS BEEN A KEY PARTNER IN NEW YORK CITY'S PRESERVATION EFFORTS, AND WE BELIEVE THERE ARE MANY MORE OPPORTUNITIES FOR COOPERATION, ESPECIALLY IF CONGRESS WERE TO PASS AFFORDABLE HOUSING PRESERVATION LEGISLATION. AS I MENTIONED, OVER 2,400 UNITS IN STARRETT RECEIVE RENTAL ASSISTANCE PAYMENTS (RAP) WHICH PAY THE DIFFERENCE BETWEEN WHAT A LOW- OR MODERATE-INCOME TENANT CAN AFFORD TO PAY, AND THE ACTUAL FAIR MARKET RENT. RAP, ALONG WITH ITS COUNTERPART PROGRAM, RENT SUPPLEMENT ("RENT SUPP"), IS A DECADES OLD AND ANTIQUATED PROGRAM. THERE ARE MORE THAN 35,000 RAP AND RENT SUPP UNITS NATIONWIDE, ACROSS 34 STATES. UNLIKE THE NEWER PROJECT-BASED SECTION 8 PROGRAM THAT REPLACED THEM, RAP AND RENT SUPP CONTRACTS CAN BE TERMINATED AT ANY TIME AND ARE NOT RENEWABLE. THAT MEANS THAT SHOULD A NEW OWNER AT STARRETT CHOOSE TO PRE-PAY THE MORTGAGE THE RAP SUBSIDIES WOULD DISAPPEAR. AND, NEW OWNER OR NOT, THE RAP CONTRACT ENDS AT STARRETT IN 2016, ALONG WITH THE GUARANTEE OF AFFORDABLE HOUSING FOR 2,400 FAMILIES.

A SOLUTION WOULD BE LEGISLATION THAT WOULD ALLOW OWNERS WITH RAP OR RENT SUPP CONTRACTS TO CONVERT TO PROJECT-BASED SECTION 8. THERE ARE BENEFITS TO BOTH OWNERS AND TENANTS. OWNERS GET THE OPTION OF GETTING FAIRER RENTS FROM HUD, AT NO COST TO THE TENANTS, AND THE OPTION TO RENEW THE CONTRACT; A

VERY APPEALING OPTION IN MID-LEVEL MARKETS. TENANTS GET BETTER PROTECTION BECAUSE THERE ARE GREATER INCENTIVES FOR AN OWNER TO CONTINUE IN THE FEDERAL PROGRAM, AND SHOULD THE OWNER CHOOSE TO LEAVE THE PROGRAM, THE TENANTS ARE GUARANTEED A HOUSING VOUCHER THAT ALLOWS THEM TO STAY IN THEIR HOME. CONVERTING THE RAP CONTRACT AT STARRETT TO A PROJECT-BASED SECTION 8 CONTRACT IS, IN MY VIEW, THE MOST EFFECTIVE WAY TO SAVE STARRETT CITY.

WHILE “OPT-OUTS” POSE A MAJOR THREAT TO THE FEDERAL STOCK OF AFFORDABLE HOUSING, THERE IS ALSO THE PROBLEM OF HUD-INSURED DISTRESSED HOUSING IN DANGER OF FORECLOSURE. WHILE IN THE PAST UNITS OF LOCAL GOVERNMENT WERE ABLE TO EXERCISE THEIR STATUTORY RIGHT OF FIRST REFUSAL TO PURCHASE THESE PROPERTIES FROM HUD AND MAINTAIN THEM AS AFFORDABLE HOUSING, CHANGES IN HUD’S PROPERTY VALUATION METHOD HAVE EFFECTIVELY SUSPENDED THE PROGRAM. HUD IS INTERPRETING LANGUAGE IN THE DEFICIT REDUCTION ACT OF 2005 AS REQUIRING THEM TO DISREGARD THE REPAIR NEEDS OF A PROPERTY WHEN VALUING IT FOR A RIGHT OF FIRST REFUSAL. THIS CHANGE HAS MEANT THAT HUD IS ASKING ABOVE MARKET PRICE FOR PROPERTIES. AS A RESULT, NO PROPERTIES HAVE BEEN SOLD AT A RIGHT OF FIRST REFUSAL SINCE PASSAGE OF THE DRA. LEGISLATION, AS CONTAINED IN H.R. 44 AND H.R. 1852, IS NEEDED TO

REQUIRE HUD TO FAIRLY VALUE PROPERTIES WHEN SELLING TO UNITS OF LOCAL GOVERNMENT. IN NEW YORK CITY ALONE, WE BELIEVE WE COULD PRESERVE THOUSANDS OF UNITS OF AFFORDABLE HOUSING IF THE RIGHT OF FIRST REFUSAL WERE REINSTATED.

LASTLY, WE HOPE YOU WILL INCLUDE IN ANY PRESERVATION LEGISLATION AMENDMENTS TO THE MULTIFAMILY MORTGAGE FORECLOSURE ACT. THAT LEGISLATION GAVE HUD A RANGE OF TOOLS TO PERFORM NON-JUDICIAL FORECLOSURES AND WE ARE ASKING THAT UNITS OF LOCAL GOVERNMENT BE AFFORDED THE SAME FLEXIBILITY. THIS IS ESPECIALLY IMPORTANT AS A COMPANION TO REINSTATING THE RIGHT OF FIRST REFUSAL, BECAUSE UNITS OF LOCAL GOVERNMENTS WOULD BECOME RESPONSIBLE FOR PROPERTY DISPOSITION.

IN CLOSING, I'D LIKE TO THANK YOU FOR THE OPPORTUNITY TO TESTIFY, AND FOR PRIORITIZING AFFORDABLE HOUSING PRESERVATION. THE SUBCOMMITTEE'S LEADERSHIP HAS BEEN CRUCIAL TO THE SUCCESS WE'VE HAD DEVELOPING AND PRESERVING AFFORDABLE HOUSING IN NEW YORK CITY, AND ACROSS THE NATION.